

## **REMARKS**

Claims 1-27 were examined in the first Office Action mailed November 5, 2004. After cancellation above of claims 15-18 and 20-27, amendment of claims 1-14 and 19 and addition of new claims 28-39, claims 1-14, 19, and 28-39 are pending. No new matter has been added.

In the Office Action, the drawings were objected to. Claims 1-5 were rejected as anticipated by U.S. Patent No. 774,862 to *Blackburn*, and claims 6 and 7 were rejected as obvious over *Blackburn*. Claims 1-14, 19-21, 24 and 27 were rejected as anticipated by GB 2323300 to *Knight*. Reconsideration and withdrawal of the objections and rejections are respectfully requested in view of the above amendments and remarks which follow.

### **A. Drawing and Specification Objections Addressed.**

The Examiner's careful review of the specification and drawings is appreciated. The specification has been amended to resolve inconsistencies in referencing portions of the intermediate connecting member shown in FIGS. 8 and 9. Rather than referring to vertical and horizontal lines, portions of the intermediate connecting member 7a of FIGS. 8 and 9 are described as vertical, horizontal, and medial portions obviating drawing amendments except that intermediate connecting member 7 of FIG. 9 is labeled 7a in the enclosed formal drawings. No new matter has been added by the amendments.

### **B. Anticipation Rejection of Claims 1-5 over *Blackburn* Addressed.**

The § 102(b) rejection of claims 1-5 over *Blackburn* is premised on a contention that *Blackburn's* "arms 4" constitute the "intermediate connecting means" which are shaped to avoid obstructions on the table adjacent a location where the table engaging means is to engage the table. The § 102(b) rejection of claims 3-5 is further premised on an assertion that the two ends of the intermediate connecting means are aligned with each other and with the shaft axis while "shaped to avoid obstructions on the table. These rejections are respectfully traversed.

As an initial matter "arms 4" are not shaped for avoiding obstructions on the table adjacent a location where the table engaging means is to

engage the table. Rather, the arms 4 of *Blackburn* are shaped to separate one half of the arms 4 from the table engaging half of the arms 4. The cue engaging portion is then raised to allow the cue to rest at a higher angle (see *Blackburn* col. 2, lines 68-70 “should he wish to have a higher rest”), but the table engaging half of *Blackburn*’s arms 4 function the same as conventional cue rests—if there is an obstruction adjacent a cue ball, the table engaging portion of the arms 4 cannot avoid an adjacent obstruction any different that it could with the cue engaging portion extended. Rather, it is the elevation of the cue-engaging portion of the arms 4 which allows a cue to approach the cue ball from an elevated angle. So, while the cue itself may avoid an obstruction using *Blackburn*’s cue rest, the intermediate connecting means is not itself shaped to avoid an adjacent obstruction.

Not only does *Blackburn* use a different mode of action to that of the claimed invention—*Blackburn* is troubled by the prior art problem identified in the Background to the Invention described at page 1, lines 22-27 of the present application—i.e., when “the cue ball is obstructed by other balls which are in play on the table . . . the cue rest must be rested on the table with the table engaging member engaging the table some distance from the cue ball, or alternatively with the shaft of the cue rest extending from the surface of the table at a relatively large angle. (Emphasis added).

Because *Blackburn* does not teach an apparatus “shaped for avoiding obstructions on the table adjacent a location where the table engaging means is to engage the table”, independent claim 1 and claims 2-5 include this feature through dependence are patentably distinguishable over *Blackburn*.

In addition claims 3-5 require that a cue rest which includes an intermediate connecting member is “shaped for avoiding obstructions on the table adjacent a location where the table engaging means is to engage the table” also includes “two ends of the intermediate connecting member are aligned with each other and with the shaft axis.” In *Blackburn*, the two ends of arms 4 are aligned with each other and with the shaft axis only when *Blackburn*’s cue rest cannot be used to avoid obstructions on the table—i.e.,

when the cue rest is in a closed position and not usable. For this additional reason, claims 3-5 are further patentably distinguishable over *Blackburn*

Claims 1-5 being patentably distinguishable over *Blackburn*, withdrawal of the 102(b) rejection of claims 1-5 over *Blackburn* is thus proper and respectfully requested.

C. Obviousness Rejection of Claims 6 and 7 over *Blackburn* Addressed.

The rejection of claims 6 and 7 as obvious over *Blackburn* is premised on a contention that the claimed arcuate and bottle-shaped portion of the intermediate connecting member is merely an obvious design choice for person of ordinary skill in the art and that the claimed invention would perform equally well with either the arms taught by *Blackburn* or the claimed arcuate arm. This rejection is respectfully traversed.

The premise above is simply incorrect—if the straight arms 4 of *Blackburn* were substituted for the claimed intermediate connecting member of original claims 6 and 7 (as amended, claims 7, 28, 29 and 30), the intermediate connecting member of the present invention would (a) no longer be “hook shaped” and (b) would no longer be shaped to avoid an obstruction on the table”.

Moreover, there is substantial objective indicia of non-obviousness identified as important in *Graham v. John Deere*. Most telling—it has been over 100 years since *Blackburn* issued in 1904—and the problem associated with obstructions adjacent a cue ball on a table remained substantially unsolved until the present application.

Accordingly, claims 7, 28, 29 and 30, each claiming an arcuate shape, substantially half-bottle shape, or the like, are non-obvious over *Blackburn* and therefore allowable thereover.

D. Obviousness Rejection of Claims 1-14, 19-21, 24 and 27 over *Knight* Addressed.

After cancellation above, of claims 20-27, the rejection of claims 1-14 and 19 over *Knight* is respectfully traversed, inasmuch as *Knight*, like *Blackburn*, nowhere teaches or suggests a cue rest “shaped for avoiding

obstructions on the table adjacent a location where the table engaging means is to engage the table." While *Knight's* rod or slide 12 does connect a table engaging means with a shaft, the rod/slide 12 is not "shaped for avoiding obstructions on the table adjacent a location where the table engaging means is to engage the table." Looking closely at *Knight*, it can be seen that it doesn't matter whether one (a) fully extends shaft 12 or (b) does not extend shaft 12 at all, obstructions adjacent *Knight's* table engaging legs 13 and feet 14 are not avoided thereby. Accordingly, the shaft 12 is not itself shaped to avoid obstructions adjacent the table engaging means. Each of claims 1-14 and 19 being patentably distinguishable over *Knight*, withdrawal of the § 103 rejection over *Knight* is proper and respectfully requested.

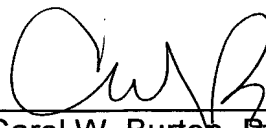
E. Newly Added Claims 28-35 are Distinguishable over the Art of Record.

Each of newly added claims 28-35 include the distinguishing feature discussed above—i.e., an intermediate member "shaped for avoiding obstructions on the table adjacent a location where the table engaging means is to engage the table." For at least this reason, allowance of each of the pending claims is respectfully requested.

F. Petition for 2-Month Extension

The applicant hereby petitions for a 2-month extension to extend the due date from February 5, 2005 to April 5, 2005. Please charge Deposit Account No. 50-1123 the \$225 small entity extension fee and any fee deficiency associated with this transmittal. The Examiner is respectfully requested to contact the undersigned at the telephone number listed below, should any questions remain.

Respectfully submitted,



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